

duration of a patent as defined by 35 USC § 154(a)(2) renders moot the double-patent rejections set forth in the March 13 Office Action.

In particular, 35 USC § 154(a)(2) defines the term of a patent as "beginning on the date on which the patent issues and ending 20 years from the date on which the application ... was filed ... or, if the application contains a specific reference to an earlier filed application or applications under section 120, 121, or 365(c) of this title, the date on which the earliest such application was filed."

The Applicant respectfully notes that the present application claims priority of, and contains a specific reference to, U.S. Patent Application Serial No. 08/454,736, which matured into U.S. Patent No. 5,867,385. Accordingly, any patent that might issue based on the present application will expire on May 30, 2015, which is twenty years from May 30, 1995, the filing date of the '736 application that matured into the '385 patent.

The Applicant respectfully submits that the obviousness-type double patenting rejection is rendered moot by the patent term as defined in 35 USC § 154(a)(2) because any patent that might issue based on the present application will not improperly extend the "right to exclude" granted by a patent that might issue based on the present application beyond that granted by the 6,941,543, 6,513,058, 5,867,385, 6,516,236, and 5,691,897 patents cited in the Office Action. The Applicant thus respectfully requests withdrawal of the double-patenting rejection based on the 6,941,543, 6,513,058, 5,867,385, 6,516,236, and 5,691,897 patents.

The Applicant acknowledges the existence of co-pending application Serial No. 10/316,451. The '451 application also claims priority of the application that matured into the '385 patent; any patent that might issue from the '451 application will thus also expire on May 30, 2015, the expiration date of any patent that might issue based on the present application.

Referring now to the objection to claim 129, claim 129 has been canceled by this Amendment rendering moot the objection thereto.

By this Amendment, claim 62 has been amended to clarify the concrete, useful, and tangible result obtained by the claimed subject matter. In particular, claim 62 now specifies that the software system commands the at least one motion control device to perform an action based on the at least one selected software driver. This action can take various forms as defined in claims 63, 66, and 69-73, which depend from claim 62. The Applicants respectfully submit that the amendment to claim 62 clarifies the result obtained by the claimed subject matter and requests withdrawal of the rejection of claim 62 under 35 USC § 101.

Referring now to the rejection of claims 18-73, 86-97, 122-128, 130-132, 148-174, and 183-190 under 35 USC § 102(e) based on the Tanaka publication, the Applicant respectfully traverses this rejection. As described above, the present application claims priority of U.S. Patent Application Serial No. 08/454,736, which was filed on May 30, 1995. The Applicant respectfully submits that the specification of the '736 application supports all of the claims pending in the present application.

Given that the pending claims are entitled to a priority date of May 30, 1995, and the Tanaka publication was published on April 18, 2002, the Applicant respectfully submits that the Tanaka publication may not properly be considered prior art under 35 USC § 102(e). The Applicant thus respectfully requests withdrawal of the rejections under 35 USC § 102(e) based on the Tanaka publication and allowance of pending claims 18-73, 86-97, 122-128, 130-132, 148-174, and 183-190.

The Applicant respectfully submits that currently pending claims 18-73, 86-97, 122-128, 130-132, 148-174, and 183-190 are in condition for allowance, and such allowance is respectfully requested. The Examiner is invited to contact the Applicant's undersigned attorney if doing so would help expedite the prosecution of the present application. The Applicant's undersigned attorney can normally be reached at the telephone number set forth below.

Signed at Bellingham, County of Whatcom, State of Washington this 6th day of April, 2006.

Respectfully submitted,

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CERTIFICATE OF MAILING

37 C.F.R. §1.8

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Date: April 6, 2006